IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE A.GOPAL REDDY**

**WRIT PETITION NO : 16410 of 2004**

Between:

D.Kamalakar, S/o D.Kanakaiah,

R/o 5-5-212/5/1, Patel Nagar, Nampally, Hyderabad

..... PETITIONER

AND

The Municipal Corporation of Hyderabad,

Tank Bund Road, Hyderabad
rep.by its Commissioner

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondent in insisting for a no objection certificate from the Joint Collector for receiving and considering the building plan submitted by the petitioner as illegal, arbitrary and consequently direct the respondent to receive the application for construction of building in Municipal No.5-5-212/5/10, Patel Nagar, Nampally, Hyderabad without insisting for the no objection certificate from the Joint Collector.

Counsel for the Petitioner:MR.O.MANOHER REDDY

Counsel for the Respondent: MR.RAMA RAO GANTA, Standing Counsel for MCH

The Court at the stage of admission made the following ORDER:

Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the Municipal Corporation, Hyderabad. Both the counsel agreed to dispose of the writ petition at the admission stage.

The petitioner is claiming to be the owner of 125 sq.yards out of 511 sq.yards situated at Patel Nagar, Nampally, bearing Municipal No.5-5-212/5/10. He purchased the said land under a registered sale deed dated 29-02-2004 and approached the municipal authorities on 15-06-2004 with an application for approval of building plan over the land purchased by him and the respondent refused to accept the said application on the ground that without any no objection certificate from the competent authority, an application for approval of building plan cannot be received.

The learned counsel for the petitioner submits that the respondent-Corporation cannot insist for no-objection certificate as held by this Court in ***POTTERIES PRIVATE LIMITED v. COLLECTOR, HYDERABAD.*** In the said decision, it is held as follows:

> " The Commissioner is required to make pragmatic assessment of the material available on record and decide the question of prima facie title and lawful possession of the applicants. The applications for grant of permission cannot be rejected solely on the basis of TSLR entries. After all, the

> decision to grant permission itself would not confer any title upon the applicant, nor it would take away the rights of the objection(s) whether the Government or any individual, for asserting their right, title and interest in the land in respect of which permission has been granted and dispute the title in any manner known to law. Similarly, the Commissioner is not entitled to decide any dispute questions of title or the ownership. All that the Commissioner required to do is to find out prima facie title and lawful possession of the applicant and obviously such consideration is confined to only for the purpose of granting permission and nothing more."

In view of the same, the respondent-Corporation is hereby directed to receive an application from the petitioner for the purpose of granting approval of building plan without insisting for no objection certificate and pass appropriate orders on the said application.

The writ petition is accordingly disposed of. No costs.

14TH SEPTEMBER, 2004.

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To

1 The Commissioner, Municipal Corporation of Hyderabad,

Tank Bund Road, Hyderabad.

2 Two C.D copies.